

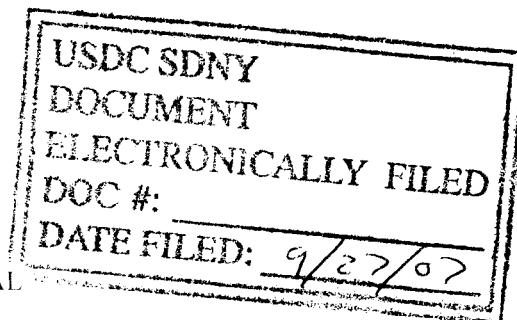


SEP 25 2007

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By Hand

September 24, 2007

Honorable William H. Pauley
United States District Judge
Southern District of New York
500 Pearl Street
Room 2210
New York, New York 10007

MEMO ENDORSED

Re: Federal Express Corp. v. Brockington et al. (07 CV 4775)(WHP)

Your Honor:

This Office is counsel for defendants Kumicki Gibson, Margaret Gormley-King, Caroline Downey, sued individually and in their capacities as officials in New York State's Division of Human Rights and for the New York State Division of Human Rights (collectively, the "State defendants"). This action seeks a declaration that a civil rights matter commenced administratively in the New York State Division of Human Rights ("DHR") by defendant Isaac L. Brockington against plaintiff Federal Express is preempted by the Employee Retirement Income Security Act ("ERISA"), and an injunction against those proceedings.

On August 17, this Court entered an order directing that the parties "report whether they have resolved the ERISA preemption issue by September 7, 2007." The Court then extended that date at the joint request of the State defendants and plaintiff twice, to September 24, 2007. We write now, on behalf of both the State defendants and plaintiff jointly, to report on the status of the settlement, and to request a further extension of three weeks, to October 15, 2007, to allow negotiations of a final stipulation to continue.

On Friday, September 7, 2007, I first received a proposed draft stipulation from plaintiff; the draft was not acceptable to the State defendants. I returned a rewritten draft of the proposed stipulation to plaintiff on Tuesday, September 11. Counsel informed me on September 12 that this new draft was not acceptable to plaintiff. I have not yet received a new draft of the stipulation from plaintiff's counsel, although he informs me he is currently preparing one. In the meantime, the administrative hearing in this matter went forward on September 17th and 18th, and has been continued to a date not yet established, but, in any event, will not proceed again before mid-October. Moreover, after discussions between counsel, there was agreement that there remained further room for negotiation. In light of the lack of any need for extreme expedition in this matter at present, and of counsel for

Hon. William J. Pauley - September 24, 2007 - Re: Fed. Ex. v. Brockington - Page 2

both parties' commitments on other matters, we therefore jointly respectfully request an additional three weeks to attempt to complete the negotiation of the settlement.

Thank you for your assistance with this matter.

Respectfully submitted,



Elizabeth A. Forman
Assistant Attorney General

cc: Ian Harris, Esq. (by fax)
Colby S. Morgan, Esq. (by fax)
Mr. Isaac L. Brockington (by mail)

Application granted

SO ORDERED:


WILLIAM H. PAULEY III U.S.D.J.

9/26/07